FILING YOUR COMPLAINT WITH OSHA ABOUT WORKPLACE SMOKING

Please read this side of the sheet FIRST.

Filing complaints with OSHA can help limit smoking in your workplace. It can also encourage OSHA to issue a general rule limiting smoking in all workplaces, including restaurants, stores, and other public places.

This page provides general information about filing OSHA smoking complaints. The next page provides more specific information about filling out the enclosed OSHA complaint form, and mailing it to ASH for filing.

Q. WHO IS ELIGIBLE TO FILE COMPLAINTS WITH OSHA?

A. With a few exceptions, employees may file complaints with the Occupational Safety and Health Administration (OSHA) if they believe they are exposed to chemicals likely to cause death or serious physical harm. The exceptions include government employees, and individuals (like persons working in mines) subject to special safety rules.

Q. WHO SHOULD FILE A SMOKING COMPLAINT WITH OSHA?

A. Any worker eligible to file an OSHA complaint (see above) who is exposed to Environmental Tobacco Smoke (ETS) anywhere in the workplace and who believes that it may cause lung cancer or other serious diseases should file a complaint to protect his or her own health.

Q. IS FILING A COMPLAINT DIFFICULT?

A. No. ASH has added to the OSHA complaint form the legal and technical language we believe is appropriate under the circumstances. You may adopt any or all of this language without the need to recopy it. Filling out the remainder of the form is not difficult, and the other side of this sheet provides additional assistance and instructions.

Q. CAN I FILE THE COMPLAINT ANONYMOUSLY?

A. Yes, by checking a box on the form which says "Do not reveal my name to the Employer." If you check this box in response to Question 11, federal law provides that your name shall not appear in the copy provided to the employer "or on any record published, released, or made available pursuant to section (g) of [29 U.S.C. § 651]."

Q. WHERE OR WITH WHOM DO I FILE MY COMPLAINT?

A. Because the office where the complaint must be filed depends in a complicated way on the address of your employer, you can simply send your complaint to ASH. ASH will determine which of the more than 100 offices should receive it, and send it to that office.

Q. WILL ASH REPRESENT ME OR ACT AS MY ATTORNEY?

A. No. ASH cannot represent the hundreds or thousands of individual nonsmokers who may wish to file complaints, but such representation is not necessary. Any employee may file a complaint with OSHA, and OSHA's procedures are geared to processing complaints filed by workers who do not have attorneys.

Q. WHAT WILL OSHA DO WITH MY COMPLAINT?

A. OSHA employees may call you for additional information, make an inspection of the premises, and/or seek to negotiate informally with your employer to limit smoking. It is also possible that OSHA may refuse to act on the complaint, a decision which will probably strengthen ASH's law suit in the U.S. Court of Appeals seeking to force OSHA to take action regarding workplace smoking.

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Source: https://www.industrydocuments.ucsf.edu/docs/[illegible]

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Please read this side of the sheet only after reading the other side.

OSHA instructions state that a worker should "complete items 2 through 18 [of the form] as accurately and completely as possible. Describe each hazard you think exists in as much detail as you can. If the hazards described in your complaint are not all in the same area, please identify where each hazard can be found in the worksite." ASH suggests that you fill out the form with a sharp-pointed pen, print your answers clearly, and be sure to answer each question 2-17. Do NOT put anything in the space for question 1 or questions 18-49, nor in the box marked "MOD Date."

Question 2 "Employer Name": the name by which your company is generally known; for example, how it is listed in the telephone book or on its own stationary

Question 3 "Site Location": the street address of your workplace, plus information like floor, department, or section of the building if relevant

Question 5 "Management Official": the name of any person or persons you know who exercise some management control or authority there

Question 7 "Type of Business": a general description, such as "insurance office," "restaurant," "bank," "school," "factory," "beauty parlor," "bowling alley," etc.

Question 8 "Hazard Description": To help satisfy OSHA's requirements, ASH has added legal and technical language which we believe is applicable to virtually all workers exposed to ETS. Cross out any which you feel is NOT applicable to your own situation. Then add more specific information about the type, amount and circumstances of your exposure, any immediately evident health consequences, and the approximate number of workers exposed (if known). The following are brief samples of the kind of information you may wish to add:

"Approximately 10 nonsmokers are subjected to smoke from three smokers in an office; complainant suffers sinus attacks." "I am forced to breath dense smoke in the restroom and it makes me nauseous." "About 50 employees are exposed to smoke in hallway, but there are no immediate observable symptoms." "Smoke drifts into my office from the smoking room, and several of us smell it."

Question 10: check the appropriate box only if you know that the problem has been brought to the attention of the employer or a government agency

Question 11: check the FIRST box if you do NOT want your name revealed to your employer

Question 12: If you are filing the complaint on behalf of yourself, you should check the first box marked "Employee"

Question 18: DO NOT PUT ANYTHING in the space for this question

Once you have completed the form and signed and dated it, please return the ORIGINAL in the enclosed courtesy envelope by December 1st. ASH will forward valid complaints to the appropriate office. There is no cost or other obligation for this service, and ASH is NOT acting as your attorney or authorized representative.

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Source: https://www.industrydocuments.ucsf.edu/docs/ksbl0000